IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 7703 of 2005(P)

PETITIONER:

T.MARTIN,
HEAD CONSTABLE (T-5514), RAILWAY POLICE
D.C.R.B.UNIT, THIRUVANANTHAPURAM.

BY ADV. SRI.T.M.ABDUL LATHEEF
SMT.P.RESHMA KABIR

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   HOME DEPARTMENT, THIRUVANANTHAPURAM.

2. **DIRECTOR GENERAL OF POLICE,**
   THIRUVANANTHAPURAM.

3. **DEPUTY INSPECTOR GENERAL OF POLICE,**
   SOUTHERN RANGE, THIRUVANANTHAPURAM.

***ADDL.R4 IS IMPLEADED:**

R4. THE ASSISTANT COMMISSIONER OF POLICE,
CRIME DEPARTMENT, TRIVANDRUM.

(*ADDL.R4 IS IMPLEADED AS PER ORDER DTD. 28/03/2005 IN I.A.NO.4773/05)

BY GOVERNMENT PLEADER SRI. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.7703/2005 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER NO.H2/57463/96/TC DTD. 10/11/1996 OF THE DEPUTY COMMISSIONER OF POLICE, THIRUVANANTHAPURAM CITY.**

EXT.P2: **COPY OF THE CHARGE MEMO NO.8/PR/96-C.I.P. DTD. 8/05/1997.**

EXT.P3: **COPY OF THE LETTER NO.2900/PRO/TVM/AP/96 DTD. 23/10/1996 OF THE PORT REGISTRATION OFFICER, THIRUVANANTHAPURAM AIR PORT.**

EXT.P4: **COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER DTD. NIL.**

EXT.P5; **COPY OF THE F.I.R.NO.293/96 DTD. 23/10/1996 OF VALIYATHURA POLICE STATION.**

EXT.P6: **COPY OF THE PETITION SUBMITTED BEFORE THE 2ND RESPONDENT BY THE PETITIONER DTD. 19/11/2004.**

EXT.P7: **COPY OF THE PETITION SUBMITTED BEFORE THE 3RD RESPONDENT BY THE PETITIONER DTD. 13/12/2004.**

EXT.P8: **COPY OF THE LETTER NO.A1.6015/06 TR DTD. 29/09/2006 OF THE 3RD RESPONDENT.**

EXT.P8: **COPY OF THE LETTER NO.E4/106862/04 DTD. 21/11/2006 OF THE 2ND RESPONDENT. (I.A.NO.10297/2007)**

EXT.P9: **COPY OF THE LETTER NO.AF-6015/06 TR DTD. 28/06/2007 OF THE 3RD RESPONDENT.**

EXT.P9: **COPY OF THE FINAL REPORT (I.A.NO.10297/2007)**

EXT.P10: **COPY OF THE REPRESENTATION DTD. NIL SUBMITTED BY THE PETITIONER BEFORE THE SUPERINTENDENT OF POLICE, RAILWAYS, THIRUVANANTHAPURAM.**

EXT.P11: **COPY OF THE LETTER NO.A3/10210/06 RL. DTD. 26/03/2007 OF THE SUPERINTENDENT OF POLICE, RAILWAYS, THIRUVANANTHAPURAM.**

EXT.P12: **COPY OF THE LETTER NO.E4/106862/04 DTD. 21/11/2006 OF THE 2ND RESPONDENT.**

EXT.P13: **COPY OF THE FINAL REPORT.**

/TRUE COPY/

P.S.TO JUDGE

KSS

Antony Dominic, J.

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W.P(C).No.7703 of 2005

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Dated this the 16th day of August, 2007.

JUDGMENT

Petitioner is a Head Constable, who has been extended the A.S.I. Grade. He was the eighth accused in Crime No.293 of 1996 of Valiyathura Police Station. Following his involvement in the criminal case, he was placed under suspension by Ext.P1 dated 10.11.1996. However the suspension was revoked and he was reinstated in service with effect from 30.9.1997. Ext.P2 is the memo of charges issued to the petitioner. Petitioner had filed written statement of defence by Ext.P4.

2. During the pendency of the Writ Petition, he received Ext.P12 informing him that in view of the pendency of the criminal case, disciplinary action has been kept pending and it is only on finalisation of the disciplinary proceedings he can be considered for promotion and benefits can be fixed only thereafter. It is also stated that during the pendency of this Writ Petition, final charges have been laid before the Chief Judicial

Magistrate Court, Thiruvananthapuram and Ext.P13 is the final charges alleging offences under the Passport Act.

2. Prayers in this Writ Petition are for quashing the memo of charges and the charge against the petitioner in Ext.P5 First Information Report in Crime No.293 of 1996. Petitioner is also seeking a direction to the respondents to grant him all service benefits including grade promotion benefits, promotion, revised salary and full salary with increments, D.A., etc.

3. As far as the prayer for quashing the charges against the petitioner in First Information Report is concerned, that does not survive any more, since by Ext.P13 final charges have already been laid against the petitioner, arraying the petitioner as the seventh accused. If the petitioner is aggrieved by this, it is upto the petitioner to seek appropriate remedies.

4. Ext.P2 memo of charges, prima facie discloses misconducts and therefore cannot be quashed in this proceeding. It is for the petitioner to answer the charges and prove his innocence in the disciplinary proceedings to be initiated against him once the criminal case is over. Therefore, relief cannot be granted in respect of prayer No. 2 in this Writ Petition.

5. In so far as the third prayer of the petitioner is concerned in view of the pendency of the criminal case, the relief cannot be granted fully. Petitioner's complaint is that he is getting only a pay of Rs.4,000/- after reinstatement and he is not getting increments or any other benefits. In the circumstances narrated above, the petitioner cannot claim revised salary. However, he will be entitled to full salary with increments and D.A. and the respondents will ensure that the petitioner is paid his due salary with increments reckoning normal D.A. and pay revision. This the respondents shall do as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment. Petitioner is directed to produce a copy of this judgment before the respondents for compliance.

With the above direction, this Writ Petition is disposed.

Antony Dominic,
Judge.

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